



Reprinted
March 26, 2021

ENGROSSED HOUSE BILL No. 1198

DIGEST OF HB 1198 (Updated March 25, 2021 4:25 pm - DI 106)

Citations Affected: IC 11-8; IC 31-30; IC 35-41; IC 35-50.

Synopsis: Adult and juvenile court jurisdiction. Provides that a complaint, indictment, or information for child molesting shall be filed in adult criminal court if the accused person: (1) was at least 14 years of age but less than 18 years of age at the time of the offense; and (2) is at least 21 years of age at the time of filing the complaint, indictment, or information. Provides that under certain circumstances an adult
(Continued next page)

Effective: July 1, 2021.

McNamara, Steuerwald, Negele

(SENATE SPONSOR — YOUNG M)

January 7, 2021, read first time and referred to Committee on Courts and Criminal Code.
February 4, 2021, amended, reported — Do Pass.
February 8, 2021, read second time, ordered engrossed. Engrossed.
February 11, 2021, read third time, passed. Yeas 85, nays 8.

SENATE ACTION

February 23, 2021, read first time and referred to Committee on Corrections and Criminal Law.
March 11, 2021, amended, reported favorably — Do Pass.
March 25, 2021, read second time, amended, ordered engrossed.

EH 1198—LS 6649/DI 143



Digest Continued

criminal prosecution for child molesting must be commenced not later than one year after specified information is discovered if: (1) the accused person was less than 18 years of age at the time of the offense; and (2) the evidence was discovered before the accused person becomes 21 years of age. Provides that a court may suspend any part of a sentence for child molesting if the person: (1) was at least 14 years of age but less than 18 years of age at the time of the offense; and (2) was at least 21 years of age at the time of filing the complaint, indictment, or information. Requires a person who: (1) commits child molesting before the age of 18; and (2) who is charged as an adult after reaching the age of 21; to register as a sex offender, but permits a court to reconsider requiring the person to register at any time after the person completes court ordered sex offender treatment.



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March 26, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1198

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.142-2020,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 4.5. (a) Except as provided in section 22 of this
4 chapter, as used in this chapter, "sex offender" means a person
5 convicted of any of the following offenses:
6 (1) Rape (IC 35-42-4-1).
7 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
8 (3) Child molesting (IC 35-42-4-3).
9 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
10 (5) Vicarious sexual gratification (including performing sexual
11 conduct in the presence of a minor) (IC 35-42-4-5).
12 (6) Child solicitation (IC 35-42-4-6).
13 (7) Child seduction (IC 35-42-4-7).
14 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
15 Class B, or Class C felony (for a crime committed before July 1,
16 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
17 crime committed after June 30, 2014), unless:

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- 1 (A) the person is convicted of sexual misconduct with a minor
 2 as a Class C felony (for a crime committed before July 1,
 3 2014) or a Level 5 felony (for a crime committed after June
 4 30, 2014);
 5 (B) the person is not more than:
 6 (i) four (4) years older than the victim if the offense was
 7 committed after June 30, 2007; or
 8 (ii) five (5) years older than the victim if the offense was
 9 committed before July 1, 2007; and
 10 (C) the sentencing court finds that the person should not be
 11 required to register as a sex offender.
 12 (9) Incest (IC 35-46-1-3).
 13 (10) Sexual battery (IC 35-42-4-8).
 14 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 15 (18) years of age, and the person who kidnapped the victim is not
 16 the victim's parent or guardian.
 17 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
 18 than eighteen (18) years of age, and the person who confined or
 19 removed the victim is not the victim's parent or guardian.
 20 (13) Possession of child pornography (IC 35-42-4-4(d) or
 21 IC 35-42-4-4(e)).
 22 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
 23 (for a crime committed before July 1, 2014) or a Level 4 felony
 24 (for a crime committed after June 30, 2014).
 25 (15) Promotion of human sexual trafficking under
 26 IC 35-42-3.5-1.1.
 27 (16) Promotion of child sexual trafficking under
 28 IC 35-42-3.5-1.2(a).
 29 (17) Promotion of sexual trafficking of a younger child
 30 (IC 35-42-3.5-1.2(c)).
 31 (18) Child sexual trafficking (IC 35-42-3.5-1.3).
 32 (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is
 33 less than eighteen (18) years of age.
 34 (20) Sexual misconduct by a service provider with a detained or
 35 supervised child (IC 35-44.1-3-10(c)).
 36 (b) The term includes:
 37 (1) a person who is required to register as a sex offender in any
 38 jurisdiction; and
 39 (2) a child who has committed a delinquent act, **or a person**
 40 **prosecuted under IC 31-30-1-4(d) for child molesting**
 41 **committed when the person was less than eighteen (18) years**
 42 **of age, but who was at least twenty-one (21) years of age when**



- 1 **the charge was filed, and who:**
 2 (A) is at least fourteen (14) years of age;
 3 (B) is on probation, is on parole, is discharged from a facility
 4 by the department of correction, is discharged from a secure
 5 private facility (as defined in IC 31-9-2-115), or is discharged
 6 from a juvenile detention facility as a result of an adjudication
 7 as a delinquent child for an act that would be an offense
 8 described in subsection (a) if committed by an adult; and
 9 (C) is found by a court by clear and convincing evidence to be
 10 likely to repeat an act that would be an offense described in
 11 subsection (a) if committed by an adult.
 12 (c) In making a determination under subsection (b)(2)(C), the court
 13 shall consider expert testimony concerning whether a child is likely to
 14 repeat an act that would be an offense described in subsection (a) if
 15 committed by an adult.
 16 **(d) A person ordered to register under subsection (b)(2) may**
 17 **petition the court to reconsider the order at any time after**
 18 **completing court ordered sex offender treatment. The court shall**
 19 **consider expert testimony concerning whether a child or person is**
 20 **likely to repeat an offense described in subsection (a) or an act that**
 21 **would be an offense described in subsection (a) if committed by an**
 22 **adult.**
 23 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.142-2020,
 24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2021]: Sec. 5. (a) Except as provided in section 22 of this
 26 chapter, as used in this chapter, "sex or violent offender" means a
 27 person convicted of any of the following offenses:
 28 (1) Rape (IC 35-42-4-1).
 29 (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 30 (3) Child molesting (IC 35-42-4-3).
 31 (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
 32 (5) Vicarious sexual gratification (including performing sexual
 33 conduct in the presence of a minor) (IC 35-42-4-5).
 34 (6) Child solicitation (IC 35-42-4-6).
 35 (7) Child seduction (IC 35-42-4-7).
 36 (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,
 37 Class B, or Class C felony (for a crime committed before July 1,
 38 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a
 39 crime committed after June 30, 2014), unless:
 40 (A) the person is convicted of sexual misconduct with a minor
 41 as a Class C felony (for a crime committed before July 1,
 42 2014) or a Level 5 felony (for a crime committed after June



- 1 30, 2014);
- 2 (B) the person is not more than:
- 3 (i) four (4) years older than the victim if the offense was
- 4 committed after June 30, 2007; or
- 5 (ii) five (5) years older than the victim if the offense was
- 6 committed before July 1, 2007; and
- 7 (C) the sentencing court finds that the person should not be
- 8 required to register as a sex offender.
- 9 (9) Incest (IC 35-46-1-3).
- 10 (10) Sexual battery (IC 35-42-4-8).
- 11 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
- 12 (18) years of age, and the person who kidnapped the victim is not
- 13 the victim's parent or guardian.
- 14 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
- 15 than eighteen (18) years of age, and the person who confined or
- 16 removed the victim is not the victim's parent or guardian.
- 17 (13) Possession of child pornography (IC 35-42-4-4(d) or
- 18 IC 35-42-4-4(e)).
- 19 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
- 20 (for a crime committed before July 1, 2014) or a Level 4 felony
- 21 (for a crime committed after June 30, 2014).
- 22 (15) Promotion of human sexual trafficking under
- 23 IC 35-42-3.5-1.1.
- 24 (16) Promotion of child sexual trafficking under
- 25 IC 35-42-3.5-1.2(a).
- 26 (17) Promotion of sexual trafficking of a younger child
- 27 (IC 35-42-3.5-1.2(c)).
- 28 (18) Child sexual trafficking (IC 35-42-3.5-1.3).
- 29 (19) Human trafficking under IC 35-42-3.5-1.4 if the victim is
- 30 less than eighteen (18) years of age.
- 31 (20) Murder (IC 35-42-1-1).
- 32 (21) Voluntary manslaughter (IC 35-42-1-3).
- 33 (22) Sexual misconduct by a service provider with a detained or
- 34 supervised child (IC 35-44.1-3-10(c)).
- 35 (b) The term includes:
- 36 (1) a person who is required to register as a sex or violent
- 37 offender in any jurisdiction; and
- 38 (2) a child who has committed a delinquent act, **or a person**
- 39 **prosecuted under IC 31-30-1-4(d) for child molesting**
- 40 **committed when the person was less than eighteen (18) years**
- 41 **of age, but who was at least twenty-one (21) years of age when**
- 42 **the charge was filed, and who:**



- 1 (A) is at least fourteen (14) years of age;
 2 (B) is on probation, is on parole, is discharged from a facility
 3 by the department of correction, is discharged from a secure
 4 private facility (as defined in IC 31-9-2-115), or is discharged
 5 from a juvenile detention facility as a result of an adjudication
 6 as a delinquent child for an act that would be an offense
 7 described in subsection (a) if committed by an adult; and
 8 (C) is found by a court by clear and convincing evidence to be
 9 likely to repeat an act that would be an offense described in
 10 subsection (a) if committed by an adult.

11 (c) In making a determination under subsection (b)(2)(C), the court
 12 shall consider expert testimony concerning whether a child is likely to
 13 repeat an act that would be an offense described in subsection (a) if
 14 committed by an adult.

15 **(d) A person ordered to register under subsection (b)(2) may**
 16 **petition the court to reconsider the order at any time after**
 17 **completing court ordered sex offender treatment. The court shall**
 18 **consider expert testimony concerning whether a child or person is**
 19 **likely to repeat an offense described in subsection (a) or an act that**
 20 **would be an offense described in subsection (a) if committed by an**
 21 **adult.**

22 SECTION 3. IC 31-30-1-4, AS AMENDED BY P.L.28-2016,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2021]: Sec. 4. (a) The juvenile court does not have jurisdiction
 25 over an individual for an alleged violation of:

- 26 (1) IC 35-41-5-1(a) (attempted murder);
 27 (2) IC 35-42-1-1 (murder);
 28 (3) IC 35-42-3-2 (kidnapping);
 29 (4) IC 35-42-4-1 (rape);
 30 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
 31 (6) IC 35-42-5-1 (robbery) if:
 32 (A) the robbery was committed while armed with a deadly
 33 weapon; or
 34 (B) the robbery results in bodily injury or serious bodily
 35 injury;
 36 (7) IC 35-42-5-2 (carjacking) (before its repeal);
 37 (8) IC 35-47-2-1 (carrying a handgun without a license), if
 38 charged as a felony;
 39 (9) IC 35-47-10 (children and firearms), if charged as a felony; or
 40 (10) any offense that may be joined under IC 35-34-1-9(a)(2) with
 41 any crime listed in this subsection;

42 if the individual was at least sixteen (16) years of age but less than



1 eighteen (18) years of age at the time of the alleged violation.

2 (b) Once an individual described in subsection (a) has been charged
3 with any offense listed in subsection (a), the court having adult
4 criminal jurisdiction shall retain jurisdiction over the case if the
5 individual pleads guilty to or is convicted of any offense listed in
6 subsection (a)(1) through (a)(9).

7 (c) If:

8 (1) an individual described in subsection (a) is charged with one

9 (1) or more offenses listed in subsection (a);

10 (2) all the charges under subsection (a)(1) through (a)(9) resulted
11 in an acquittal or were dismissed; and

12 (3) the individual pleads guilty to or is convicted of any offense
13 other than an offense listed in subsection (a)(1) through (a)(9);

14 the court having adult criminal jurisdiction may withhold judgment and
15 transfer jurisdiction to the juvenile court for adjudication and
16 disposition. In determining whether to transfer jurisdiction to the
17 juvenile court for adjudication and disposition, the court having adult
18 criminal jurisdiction shall consider whether there are appropriate
19 services available in the juvenile justice system, whether the child is
20 amenable to rehabilitation under the juvenile justice system, and
21 whether it is in the best interests of the safety and welfare of the
22 community that the child be transferred to juvenile court. All orders
23 concerning release conditions remain in effect until a juvenile court
24 detention hearing, which must be held not later than forty-eight (48)
25 hours, excluding Saturdays, Sundays, and legal holidays, after the order
26 of transfer of jurisdiction.

27 **(d) A court having adult criminal jurisdiction, and not a juvenile**
28 **court, has jurisdiction over an individual for an alleged violation**
29 **of child molesting (IC 35-42-4-3) if the individual was at least**
30 **fourteen (14) years of age but less than eighteen (18) years of age**
31 **at the time of the alleged violation but at least twenty-one (21)**
32 **years of age at the time of filing.**

33 SECTION 4. IC 31-30-1-11 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) Except as
35 provided in ~~section~~ **sections 4 and 9** of this chapter, if a court having
36 criminal jurisdiction determines that a defendant is alleged to have
37 committed a crime before the defendant is eighteen (18) years of age,
38 the court shall immediately transfer the case, together with certified
39 copies of all papers, documents, and testimony, to the juvenile court.
40 The juvenile court shall proceed as if it had received a referral under
41 IC 31-37-8.

42 (b) The court having criminal jurisdiction shall release the child on



1 the child's own recognizance or to the child's parent, guardian, or
 2 custodian upon that person's written promise to bring the child before
 3 the juvenile court at a specified time. However, the court may order the
 4 child detained if the court finds probable cause to believe that the child
 5 committed an act that would be a crime if committed by an adult and
 6 that:

- 7 (1) the child is unlikely to appear before the juvenile court for
- 8 subsequent proceedings;
- 9 (2) detention is essential to protect the child or the community;
- 10 (3) the parent, guardian, or custodian:
- 11 (A) cannot be located; or
- 12 (B) is unable or unwilling to take custody of the child; or
- 13 (4) the child has a reasonable basis for requesting that he or she
- 14 not be released.

15 If the child is detained for a reason specified by subdivision (3) or (4),
 16 the child must be detained in accordance with IC 31-37-7-1.

17 (c) If the child is not released, the child shall be delivered to a place
 18 designated by the juvenile court. The court having criminal jurisdiction
 19 shall promptly notify the child's parent, guardian, or custodian and an
 20 intake officer of where the child is being held and the reasons for the
 21 child's detention.

22 (d) A child transferred to the juvenile court under this section (or
 23 IC 31-6-2-2 before its repeal) may not be released on bail.

24 SECTION 5. IC 35-41-4-2, AS AMENDED BY P.L.31-2020,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2021]: Sec. 2. (a) Except as otherwise provided in this section,
 27 a prosecution for an offense is barred unless it is commenced:

- 28 (1) within five (5) years after the commission of the offense, in
- 29 the case of a Class B, Class C, or Class D felony (for a crime
- 30 committed before July 1, 2014) or a Level 3, Level 4, Level 5, or
- 31 Level 6 felony (for a crime committed after June 30, 2014); or
- 32 (2) within two (2) years after the commission of the offense, in the
- 33 case of a misdemeanor.

34 (b) A prosecution for a Class B or Class C felony (for a crime
 35 committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony
 36 (for a crime committed after June 30, 2014) that would otherwise be
 37 barred under this section may be commenced within one (1) year after
 38 the earlier of the date on which the state:

- 39 (1) first discovers evidence sufficient to charge the offender with
- 40 the offense through DNA (deoxyribonucleic acid) analysis; or
- 41 (2) could have discovered evidence sufficient to charge the
- 42 offender with the offense through DNA (deoxyribonucleic acid)



- 1 analysis by the exercise of due diligence.
- 2 (c) Except as provided in subsection (e), a prosecution for a Class
3 A felony (for a crime committed before July 1, 2014) or a Level 1
4 felony or Level 2 felony (for a crime committed after June 30, 2014)
5 may be commenced at any time.
- 6 (d) A prosecution for murder may be commenced:
- 7 (1) at any time; and
- 8 (2) regardless of the amount of time that passes between:
- 9 (A) the date a person allegedly commits the elements of
10 murder; and
- 11 (B) the date the alleged victim of the murder dies.
- 12 (e) Except as provided in subsection (p), **(q), or (r)** a prosecution
13 for the following offenses is barred unless commenced before the date
14 that the alleged victim of the offense reaches thirty-one (31) years of
15 age:
- 16 (1) IC 35-42-4-3 (child molesting).
- 17 (2) IC 35-42-4-5 (vicarious sexual gratification).
- 18 (3) IC 35-42-4-6 (child solicitation).
- 19 (4) IC 35-42-4-7 (child seduction).
- 20 (5) IC 35-42-4-9 (sexual misconduct with a minor).
- 21 (6) IC 35-46-1-3 (incest).
- 22 (f) A prosecution for forgery of an instrument for payment of
23 money, or for the uttering of a forged instrument, under IC 35-43-5-2,
24 is barred unless it is commenced within five (5) years after the maturity
25 of the instrument.
- 26 (g) If a complaint, indictment, or information is dismissed because
27 of an error, defect, insufficiency, or irregularity, a new prosecution may
28 be commenced within ninety (90) days after the dismissal even if the
29 period of limitation has expired at the time of dismissal, or will expire
30 within ninety (90) days after the dismissal.
- 31 (h) The period within which a prosecution must be commenced does
32 not include any period in which:
- 33 (1) the accused person is not usually and publicly resident in
34 Indiana or so conceals himself or herself that process cannot be
35 served;
- 36 (2) the accused person conceals evidence of the offense, and
37 evidence sufficient to charge the person with that offense is
38 unknown to the prosecuting authority and could not have been
39 discovered by that authority by exercise of due diligence; or
- 40 (3) the accused person is a person elected or appointed to office
41 under statute or constitution, if the offense charged is theft or
42 conversion of public funds or bribery while in public office.



1 (i) For purposes of tolling the period of limitation only, a
2 prosecution is considered commenced on the earliest of these dates:

3 (1) The date of filing of an indictment, information, or complaint
4 before a court having jurisdiction.

5 (2) The date of issuance of a valid arrest warrant.

6 (3) The date of arrest of the accused person by a law enforcement
7 officer without a warrant, if the officer has authority to make the
8 arrest.

9 (j) A prosecution is considered timely commenced for any offense
10 to which the defendant enters a plea of guilty, notwithstanding that the
11 period of limitation has expired.

12 (k) The following apply to the specified offenses:

13 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of
14 funeral trust funds) is barred unless commenced within five (5)
15 years after the date of death of the settlor (as described in
16 IC 30-2-9).

17 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse
18 of funeral trust funds) is barred unless commenced within five (5)
19 years after the date of death of the settlor (as described in
20 IC 30-2-10).

21 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse
22 of funeral trust or escrow account funds) is barred unless
23 commenced within five (5) years after the date of death of the
24 purchaser (as defined in IC 30-2-13-9).

25 (l) A prosecution for an offense under IC 23-2-6, IC 23-2.5,
26 IC 23-14-48-9, or IC 23-19 is barred unless commenced within five (5)
27 years after the earlier of the date on which the state:

28 (1) first discovers evidence sufficient to charge the offender with
29 the offense; or

30 (2) could have discovered evidence sufficient to charge the
31 offender with the offense by the exercise of due diligence.

32 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is
33 committed against a child and that is not:

34 (1) a Class A felony (for a crime committed before July 1, 2014)
35 or a Level 1 felony or Level 2 felony (for a crime committed after
36 June 30, 2014); or

37 (2) listed in subsection (e);

38 is barred unless commenced within ten (10) years after the commission
39 of the offense, or within four (4) years after the person ceases to be a
40 dependent of the person alleged to have committed the offense,
41 whichever occurs later.

42 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a



1 crime committed before July 1, 2014) or as a Level 3 felony (for a
 2 crime committed after June 30, 2014) that would otherwise be barred
 3 under this section may be commenced not later than five (5) years after
 4 the earlier of the date on which:

5 (1) the state first discovers evidence sufficient to charge the
 6 offender with the offense through DNA (deoxyribonucleic acid)
 7 analysis;

8 (2) the state first becomes aware of the existence of a recording
 9 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 10 to charge the offender with the offense; or

11 (3) a person confesses to the offense.

12 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)
 13 (repealed) as a Class B felony for a crime committed before July 1,
 14 2014, that would otherwise be barred under this section may be
 15 commenced not later than five (5) years after the earliest of the date on
 16 which:

17 (1) the state first discovers evidence sufficient to charge the
 18 offender with the offense through DNA (deoxyribonucleic acid)
 19 analysis;

20 (2) the state first becomes aware of the existence of a recording
 21 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 22 to charge the offender with the offense; or

23 (3) a person confesses to the offense.

24 (p) **Except as provided in subsection (q)(1),** a prosecution for an
 25 offense described in subsection (e) that would otherwise be barred
 26 under this section may be commenced not later than five (5) years after
 27 the earliest of the date on which:

28 (1) the state first discovers evidence sufficient to charge the
 29 offender with the offense through DNA (deoxyribonucleic acid)
 30 analysis;

31 (2) the state first becomes aware of the existence of a recording
 32 (as defined in IC 35-31.5-2-273) that provides evidence sufficient
 33 to charge the offender with the offense; or

34 (3) a person confesses to the offense.

35 (q) **Except as provided in subsection (r), an adult criminal**
 36 **prosecution for child molesting committed by a person less than**
 37 **eighteen (18) years of age must be commenced not later than the**
 38 **earlier of the following:**

39 (1) **One (1) year after the earliest date on which:**

40 (A) **the state first discovered evidence sufficient to charge**
 41 **the offender with the offense through DNA**
 42 **(deoxyribonucleic acid) analysis;**



1 **(B) the state first became aware of the existence of a**
 2 **statement or recording (as defined in IC 35-31.5-2-273)**
 3 **that provides evidence sufficient to charge the offender**
 4 **with the offense;**
 5 **(C) the person confesses to the offense; or**
 6 **(D) the victim discloses the nature of the offense involving**
 7 **the person;**
 8 **if the discovery, awareness, confession, or disclosure of the**
 9 **evidence described in this subdivision occurred before the**
 10 **person reached twenty-one (21) years of age. However, this**
 11 **subdivision does not apply to an adult criminal prosecution if**
 12 **the juvenile court waived jurisdiction under IC 31-30-3.**

13 **(2) The period described in subsection (e).**
 14 **(r) This subsection applies only to a prosecution that is barred**
 15 **under subsection (e). It does not apply to a prosecution that is**
 16 **barred under subsection (q)(1). A prosecution to which this**
 17 **subsection applies must be commenced not later than the period**
 18 **described in subsection (p).**

19 SECTION 6. IC 35-50-2-2.2, AS AMENDED BY P.L.142-2020,
 20 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2021]: Sec. 2.2. (a) Except as provided in subsection (b), (c),
 22 (d), or (e), the court may suspend any part of a sentence for a felony.

23 (b) Except as provided in subsection (d), if a person is convicted of
 24 a Level 2 felony or a Level 3 felony, except a Level 2 felony or a Level
 25 3 felony concerning a controlled substance under IC 35-48-4, and has
 26 any prior unrelated felony conviction, the court may suspend only that
 27 part of a sentence that is in excess of the minimum sentence for the:

- 28 (1) Level 2 felony; or
- 29 (2) Level 3 felony.

30 (c) If:
 31 (1) a person has a prior unrelated felony conviction for dealing in
 32 a controlled substance that is not marijuana, hashish, hash oil, or
 33 salvia divinorum; and
 34 (2) the person is convicted of a Level 2 felony under
 35 IC 35-48-4-1.1 or IC 35-48-4-1.2;
 36 the court may suspend only that part of a sentence that is in excess of
 37 the minimum sentence for the Level 2 felony.

38 (d) If a person:
 39 (1) is convicted of dealing in heroin as a Level 2 or Level 3 felony
 40 under IC 35-48-4-1 or IC 35-48-4-2; and
 41 (2) has a prior unrelated felony conviction;
 42 the court may suspend only that part of a sentence that is in excess of



1 the minimum sentence for the Level 2 or Level 3 felony.

2 (e) The court may suspend only that part of a sentence for murder
3 or a Level 1 felony conviction that is in excess of the minimum
4 sentence for murder or the Level 1 felony conviction.

5 (f) **The court may suspend any part of a sentence for child**
6 **molesting filed in adult court under IC 31-30-1-4(d).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1198, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 40, after "was" insert "**at least fourteen (14) years of age but**".

Page 7, line 11, delete "or".

Page 7, line 12, delete "offense." and insert "**offense; or**".

Page 7, between lines 12 and 13, begin a new line block indented and insert:

"(4) the victim discloses the nature of the offense involving the person."

and when so amended that said bill do pass.

(Reference is to HB 1198 as introduced.)

MCNAMARA

Committee Vote: yeas 9, nays 3.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1198, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 33, delete "of:" and insert "**of child molesting (IC 35-42-4-3)**".

Page 2, delete lines 34 through 39.

Page 2, run in lines 33 through 40.

and when so amended that said bill do pass.

(Reference is to HB 1198 as printed February 4, 2021.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 1.

EH 1198—LS 6649/DI 143



SENATE MOTION

Madam President: I move that Engrossed House Bill 1198 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.142-2020, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.



(13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.

(16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).

(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

(18) Child sexual trafficking (IC 35-42-3.5-1.3).

(19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

(20) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act, **or a person prosecuted under IC 31-30-1-4(d) for child molesting committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed**, and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is



likely to repeat an offense described in subsection (a) or an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.142-2020, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
 - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony



(for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).

(15) Promotion of human sexual trafficking under IC 35-42-3.5-1.1.

(16) Promotion of child sexual trafficking under IC 35-42-3.5-1.2(a).

(17) Promotion of sexual trafficking of a younger child (IC 35-42-3.5-1.2(c)).

(18) Child sexual trafficking (IC 35-42-3.5-1.3).

(19) Human trafficking under IC 35-42-3.5-1.4 if the victim is less than eighteen (18) years of age.

(20) Murder (IC 35-42-1-1).

(21) Voluntary manslaughter (IC 35-42-1-3).

(22) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act, **or a person prosecuted under IC 31-30-1-4(d) for child molesting committed when the person was less than eighteen (18) years of age, but who was at least twenty-one (21) years of age when the charge was filed**, and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(d) A person ordered to register under subsection (b)(2) may petition the court to reconsider the order at any time after completing court ordered sex offender treatment. The court shall consider expert testimony concerning whether a child or person is likely to repeat an offense described in subsection (a) or an act that



would be an offense described in subsection (a) if committed by an adult."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1198 as printed March 12, 2021.)

TALLIAN

SENATE MOTION

Madam President: I move that Engrossed House Bill 1198 be amended to read as follows:

Page 4, line 16, delete "(p)," and insert "(p), (q), or (r)".

Page 6, line 27, delete "A" and insert "**Except as provided in subsection (q)(1), a**".

Page 6, delete lines 37 through 42, begin a new paragraph and insert:

"(q) Except as provided in subsection (r), an adult criminal prosecution for child molesting committed by a person less than eighteen (18) years of age must be commenced not later than the earlier of the following:

(1) One (1) year after the earliest date on which:

(A) the state first discovered evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis;

(B) the state first became aware of the existence of a statement or recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense;

(C) the person confesses to the offense; or

(D) the victim discloses the nature of the offense involving the person;

if the discovery, awareness, confession, or disclosure of the evidence described in this subdivision occurred before the person reached twenty-one (21) years of age. However, this subdivision does not apply to an adult criminal prosecution if the juvenile court waived jurisdiction under IC 31-30-3.

(2) The period described in subsection (e).

(r) This subsection applies only to a prosecution that is barred under subsection (e). It does not apply to a prosecution that is barred under subsection (q)(1). A prosecution to which this



subsection applies must be commenced not later than the period described in subsection (p)."

Page 7, delete lines 1 through 8.

Page 7, line 37, delete "an offense" and insert "**child molesting**".

(Reference is to EHB 1198 as printed March 12, 2021.)

YOUNG M

